

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-15 are pending and stand rejected

Claims 1, 13, 14, and 15 are independent claims.

Claims 1, 13 and 15 have been amended.

Claims 1-15 stand rejected under 35 USC 103(a) as being unpatentable over Iwamoto (USP no. 7, 190, 415) in view of Ehrlich (USP no. 6,546, 427).

Applicant thanks the Examiner for the withdrawal of the objection to the specification and rejection of the claims under 35 USC §§101 and 112, in view of the arguments presented in applicant's response to the rejection of the claims in the previous Office Action.

In maintaining the rejection of the claims 1-15 under 35 USC 103(a) as being unpatentable over Iwamoto in view of Ehrlich, the Office Action asserts that applicant relies on features not recited in the claims and that Iwamoto teaches the originally claimed limitations as follows: time-estimating means arranged to estimate a period of time necessary for outputting a remaining part of said first item (the commercial on current channel A can be interpreted as the remaining part of the first item, see, e.g., col. 8, lines 46-64); and the predetermined time for which a commercial message is expected to be broadcast (see, e.g., col. 8, lines 46-47), the real commercial message can be different than the predetermined time (see, e.g., col. 8, lines 61-64). Therefore the predetermined time period is equivalent to applicant's estimated time for outputting a remaining part of the first item. (see OA, pages 8-9).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, the independent claims have been amended to explicitly recite a timing means for measuring a duration of outputting the first item and estimating the remaining time to output the first item measured from substantially the time of

duration of the outputting of the first item. No new matter has been added. Support for the amendment may be found at least on page 2, lines 10-14.

With regard to the assertion that applicant has argued features not recited in the claims, applicant believes that the language used in applicant's argument (i.e., "the predetermined time of Iwamoto relates to an interruption in the content on a first channel and fails to represent a time remaining from the start of an interruption to the end content on the first channel") is comparable to, and captures the intent of the, claim element "time-estimating means (140) arranged to estimate, upon inputting said command, a period of time necessary for outputting a remaining part of said first item." (emphasis added).

More specifically, the argument language refers to estimating a time period from the start of the interruption (i.e., inputting said command) to the end of the content (remaining part of said first item). Such an interpretation of the claim language is comparable to the teachings of the invention claimed in the written description on page 2, lines 10-14, which states "[1]he period of time, a duration of the remaining part of said first item from the particular moment of inputting the user command to skip said first item till the end of outputting said first item may be estimated by said time-estimating means."

Thus, applicant believes that applicant's previous argument regarding estimating time period "from the start of an interruption to the end content on the first channel," is comparable to the subject matter claimed.

Notwithstanding applicant's belief that the arguments are supported by the claims, the independent claims have each been amended to explicitly recite the determination of a duration of outputting of the first item and estimating a time for the outputting of the remaining portion of the first item from the determined duration of outputting the first item.

With regard to the claims based on the combination of Iwamoto and Ehrich, applicant submits that the predetermined time taught by Iwamoto is not comparable to the estimated "period of time necessary for outputting a remaining part of said first item

measured from substantially said time duration of outputting said first item," recited in the claims.

Iwamoto discloses a system to allow for a switch between a first channel and a second channel when a commercial is detected on the first channel. The system remains on the second channel for a predetermined amount of time before returning to the first channel. This basic operation is shown in Figure 3 and described in col. 8, lines 13-64. Iwamoto discloses that the "predetermined time for which a commercial message is expected to be broadcast, for example, on the channel A is set by the timer IC 2 in Fig. 1, in advance."

Hence, the predetermined time is based on an expected time of broadcast from the start of a commercial message to the end of the commercial message and is set in advance.

However, this predetermined time is not comparable to the estimated time period recited in the claims, as the estimated time period for outputting a remaining part of said first item is measured from a time duration of outputting of the first item that has occurred.. That is, from the time of a user command input to the expected time of the end of the output of the first item.

In addition, Iwamoto notes that in the processing of Figure 3, it is possible that the predetermined time may expire prior to the end of the commercial on the first channel and, hence, when the switch back to the first channel occurs, the user would see the remaining portion of the commercial message. This situation may occur when the predetermined time is set for 30 seconds, for example, and the commercial message is 45 seconds. Figure 4 resolves this problem by letting the user control the switch back to the first channel even if the predetermined time has expired. See Figure 4, step S2g and col. 9, lines 33-44.).

Hence, Iwamoto fails to provide any teaching regarding the claim element "wherein a duration of said at least one second item is substantially equal to said period of time." Thus, the second broadcast item may be of greater or lesser duration than the interrupted broadcast on the first channel. Iwamoto fails to provide any teaching that the second broadcast is of a length substantially equal to said period of time, as is recited in the claims.

Ehrich discloses a system for providing content from a broadcast program content to a plurality of users over a network. During transmission over the network, alternative content is switched to the network content at predetermined intervals and substituted for selected content during the predetermined intervals. Ehrich is recited for teaching that predetermined time (time of interruption and duration of interruption) may be provided via a message.

However, contrary to the assertions made in the Office Action, even if a time of interruption and a duration of the interruption were provided to the system of Iwamoto, from Ehrich, the combined system would not provide any searching to find a second broadcast having a duration substantially equal to said period of time necessary for outputting a remaining part of said first item, as is recited in the claims.

Hence, the combination of Iwamoto and Ehrich fails to recite a material element of the claims (e.g., estimation means to estimate a time period from a determined duration of outputting said first item and searching for second media content having a duration substantially equal to the estimated time period).

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

In this case, Iwamoto fails to disclose a material element recited in the independent claims and Ehrich fails to provide any teaching to correct the deficiency, found to exist in Iwamoto. Hence, the combination of Iwamoto and Ehrich fails to teach all the elements recited in the independent claims.

With regard to the remaining dependent claims, these claims ultimately depend from the independent claims and, thus, the remaining dependent claims are also allowable by virtue of their dependence from an allowable base claim, without arguing the merits of each claim individually.

Amendment
Appl. no. 10/532, 470
Inventor: Bodlaender, P.

NL 021061

For the remarks made herein, applicant submits that all the objections and rejections have been overcome and that the claims are in a condition for allowance. It is respectfully requested that a Notice of Allowance be issued.

Should the Examiner believe that the disposition of any issues arising from this response may be best resolved by a telephone call, the Examiner is invited to contact applicant's representative at the telephone number listed below.

Respectfully submitted,
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